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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,145	06/22/2001	John M. Shanahan	65043-0038	8181

10291 7590 12/12/2002

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EXAMINER

MENDIRATTA, VISHU K

ART UNIT PAPER NUMBER

3711

DATE MAILED: 12/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/888,145

Applicant(s)

SHANAHAN, JOHN M.

Examiner

Vishu K Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. Claims 1,3-6,8,10,11,13 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller.

Mueller teaches a strip in a fortune like cookie and strip having printed matter (Fig.3). Mueller teaches all limitations of these claims except that it does not teach predetermined denomination and suit as indicia. The only difference between applicant's strip and Mueller resides in the meaning and information conveyed by the printed matter. Such differences are considered unpatentable, Ex parte Breslow, 192 USPQ 431. In order to create a variation, it would have been obvious to print predetermined denomination or any other theme related indicia. One of ordinary skill in art at the time the invention was made would have printed suit and denomination on the strip.

Applicant may note that limitations in claims 9 and 10 are rules for playing and do not further add any limitation to the structure of the apparatus claimed.

2. Claims 2,7,9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller in view of Reynolds.

Mueller teaches all limitations of these claims except that it does not teach perforation on strips for separation of cards. Reynolds teaches perforation on strips for card separation. In order to detach cards from the strip, it would have been obvious to use

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perforation. One of ordinary skill in art at the time the invention was made would have used perforation for easy separation of cards from the strip.

Response to Arguments

3. Applicant's arguments filed 9/26/02 have been fully considered but they are not persuasive. Mueller fortune cookie game contains a strip determining a chance in a chance game. Applicant's fortune cookie also contains a strip determining a chance in a chance game. The only difference between the two is the printed matter on the strip.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roberts (2,254,545) teaches a predetermined hand inside concealment.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

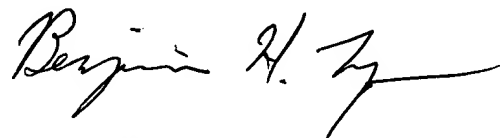
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on (703) 308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Vishu K Mendiratta
Examiner
Art Unit 3711

VKM
December 9, 2002

A handwritten signature in black ink, appearing to read "Benjamin H. Layno", with a stylized flourish at the end.

Benjamin H. Layno
Primary Examiner